

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 290

HOUSE BILL 2586

AN ACT

AMENDING LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 7, SECTIONS 4 AND 5;
AMENDING LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 12, SECTION 42; RELATING
TO AGENCY RULE MAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Laws 2010, seventh special session, chapter 7, section 4 is
3 amended to read:

4 Sec. 4. Agricultural fees; increases; appropriation; exemption
5 from rule making

6 A. Notwithstanding any other law, the director of the Arizona
7 department of agriculture, with the assistance of the agriculture advisory
8 council, may increase or decrease fees in fiscal year 2010-2011 for services
9 provided in fiscal year 2010-2011.

10 B. It is the intent of the legislature that the additional revenue
11 generated by the fee increases pursuant to subsection A shall not exceed
12 \$561,000 and that a specific fee plan be developed for legislative
13 consideration by April 1, 2010.

14 C. Monies received from fees pursuant to this section are appropriated
15 to the Arizona department of agriculture.

16 D. The Arizona department of agriculture is exempt from the rule
17 making requirements of title 41, chapter 6, Arizona Revised Statutes, for the
18 purpose of establishing fees pursuant to this section until July 1, 2011.
19 THE DEPARTMENT SHALL PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC
20 COMMENT ON PROPOSED RULES AT LEAST THIRTY DAYS BEFORE RULES ARE ADOPTED OR
21 AMENDED PURSUANT TO THIS SECTION.

22 ~~E. This section is effective retroactively to from and after June 30,~~
23 ~~2010.~~

24 E. FEES ASSESSED PURSUANT TO THIS SECTION MUST BE FAIRLY AND EQUALLY
25 ASSESSED TO ALL PARTIES FOR SERVICES RENDERED AND MUST BE ASSESSED IN A
26 NONDISCRIMINATORY MANNER AGAINST BOTH PUBLIC AND PRIVATE PARTIES.

27 Sec. 2. Laws 2010, seventh special session, chapter 7, section 5 is
28 amended to read:

29 Sec. 5. Fees for providing services; increases; fiscal year
30 2010-2011; intent; appropriations; exemption from
31 rule making

32 A. Notwithstanding any other law, the director of each of the
33 following agencies may increase fees in fiscal year 2010-2011 for services in
34 fiscal year 2010-2011:

35 1. Department of environmental quality.

36 2. Department of water resources.

37 B. It is the intent of the legislature that the additional revenue
38 generated by the fee increases pursuant to subsection A shall not exceed
39 \$5,779,100 for the department of environmental quality and \$5,662,900 for the
40 department of water resources and that a specific fee plan be developed for
41 legislative consideration by April 1, 2010.

42 C. Monies received from fees pursuant to this section are appropriated
43 to the respective agencies.

44 D. The agencies described in subsection A are exempt from the rule
45 making requirements of title 41, chapter 6, Arizona Revised Statutes, for the

1 purpose of establishing fees pursuant to this section until July 1, 2011.
2 EACH AGENCY SHALL PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC COMMENT
3 ON PROPOSED RULES AT LEAST THIRTY DAYS BEFORE RULES ARE ADOPTED OR AMENDED
4 PURSUANT TO THIS SECTION.

5 E. FEES ASSESSED PURSUANT TO THIS SECTION MUST BE FAIRLY AND EQUALLY
6 ASSESSED TO ALL PARTIES FOR SERVICES RENDERED AND MUST BE ASSESSED IN A
7 NONDISCRIMINATORY MANNER AGAINST BOTH PUBLIC AND PRIVATE PARTIES.

8 Sec. 3. Laws 2010, seventh special session, chapter 12, section 42 is
9 amended to read:

10 Sec. 42. Fees for providing services; increases; intent;
11 appropriations; exemption from rule making

12 A. Notwithstanding any other law, except as provided in subsection D,
13 the director of each of the following agencies may increase fees in fiscal
14 year 2010-2011 for services provided in fiscal year 2010-2011:

- 15 1. Department of health services.
- 16 2. Office of pest management.
- 17 3. Radiation regulatory agency.
- 18 4. State land department.

19 B. It is the intent of the legislature that the additional revenue
20 generated by the fee increases shall not exceed the amounts listed below:

- | | |
|-------------------------------------|------------|
| 21 1. Department of health services | \$600,000. |
| 22 2. Office of pest management | \$525,000. |
| 23 3. Radiation regulatory agency | \$500,000. |
| 24 4. State land department | \$600,000. |

25 C. Monies received from any fees pursuant to subsection A are
26 appropriated to the respective agencies.

27 D. The state land department may not increase a fee pursuant to
28 subsection A for a recreational permit issued by the department.

29 E. The agencies described in subsection A are exempt from the rule
30 making requirements of title 41, chapter 6, Arizona Revised Statutes, for the
31 purpose of establishing fees pursuant to this section until July 1, 2011.
32 EACH AGENCY SHALL PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC COMMENT
33 ON PROPOSED RULES AT LEAST THIRTY DAYS BEFORE RULES ARE ADOPTED OR AMENDED
34 PURSUANT TO THIS SECTION.

35 ~~F. This section is effective retroactively to from and after June 30,~~
36 ~~2010.~~

37 F. FEES ASSESSED PURSUANT TO THIS SECTION MUST BE FAIRLY AND EQUALLY
38 ASSESSED TO ALL PARTIES FOR SERVICES RENDERED AND MUST BE ASSESSED IN A
39 NONDISCRIMINATORY MANNER AGAINST BOTH PUBLIC AND PRIVATE PARTIES.

40 Sec. 4. State agency fee commission; membership; duties;
41 report; delayed repeal

42 A. The state agency fee commission is established consisting of the
43 following members:

1 1. Four members who are appointed by the governor, not more than two
2 of whom are members of the same political party. The governor shall appoint
3 one of these members as chairperson of the commission.

4 2. Three members who are appointed by the president of the senate, not
5 more than two of whom are members of the same political party.

6 3. Three members who are appointed by the speaker of the house of
7 representatives, not more than two of whom are members of the same political
8 party.

9 B. Commission members are not eligible to receive compensation but are
10 eligible for reimbursement of expenses pursuant to title 38, chapter 4,
11 article 2, Arizona Revised Statutes.

12 C. The commission shall:

13 1. Review existing state agency fee authority.

14 2. Review state agency fiscal needs and appropriate fee levels.

15 3. Study the equality of the impact of state agency fees on business
16 and industry in this state.

17 4. Make recommendations on an appropriate legal procedure to raise or
18 lower existing state agency fees.

19 D. The commission may use the services of legislative staff as
20 required.

21 E. On or before December 31, 2010, the commission shall submit a
22 written report of its findings and recommendations to the speaker of the
23 house of representatives, the president of the senate and the governor. The
24 commission shall provide a copy of the report to the secretary of state.

25 F. This section is repealed from and after September 30, 2011.

26 Sec. 5. Retroactivity

27 Sections 1, 2 and 3 of this act are effective retroactively to from and
28 after June 14, 2010.

APPROVED BY THE GOVERNOR MAY 10, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2010.